

MINUTES

UTAH PHYSICIAN'S BOARD MEETING

May 14, 2008

**Room 474 – 4th Floor – 9:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:01 A.M.

ADJOURNED: 11:33 A.M.

Bureau Manager:
Board Secretary:
Compliance Specialist:

Noel Taxin
Joyce McStotts
Debbie Harry

Board Members Present:

George C. Pingree, MD, Board Chairperson
James R. Fowler, MD
Lori G. Buhler
Elizabeth F. Howell, MD
James H. Pingree, MD
Stephen E. Lamb, MD
Richard J. Sperry, MD
Kristen Ries, MD
John W. Bennion, Ph.D.
Marc E. Babitz, MD
Michael T. Giovanniello, MD

Board Members Absent:

All were present.

Guests:

Scott Pedersen

DOPL Staff Present:

F. David Stanley, Division Director
Wayne Holman, Chief Investigation Supervisor

TOPICS FOR DISCUSSION

ADMINISTRATIVE BUSINESS:

DECISIONS AND RECOMMENDATIONS

Dr. Pingree started the meeting, welcomed the Board members and thanked everyone for coming.
Dr. Pingree read the checklist for Public Meetings.

MINUTES:

The minutes from the April 9, 2008 Board meeting were read. Dr. Pingree suggested one minor correction. Dr. Lamb complemented Karen McCall, the Board Secretary, on being thorough with the

minutes.

Dr. Giovanniello made the motion to accept the minutes with the minor corrections. Dr. Fowler seconded the motion. The vote passed unanimously.

With the compliment on the minutes, Ms. Taxin mentioned she had received comments on the Board meeting minutes being long. The Boards discussed the benefits of having the detailed information and the problems which have been resolved with the information available within the minutes. The Board discussed options and stated they would like to see the thoroughness of the way the minutes are completed now to continue.

APPOINTMENTS:

9:30 am

Debbie Harry, Compliance Update

Ms. Harry explained the outline of the probationary information in the probationary packets.

Ms. Harry reviewed the following:

Philip Washburn - Ms. Harry stated this could be Dr. Washburn's last interview. Ms. Harry stated that Dr. Washburn is not compliant for this month only. Ms. Harry stated Dr. Washburn is missing the report on the record review, the triplicates of his written prescriptions, letter from Dr. Chipman supporting termination of Dr. Washburn's probation, and the letter from Dr. Washburn stating what he had learned while on probation.

Alan Heap - Ms. Harry stated Dr. Heap has had a heart attack. Ms. Harry stated Dr. Heap is not in compliance. Dr. Heap needs to provide: employer evaluations for this quarter, self assessment reports for February and May, supervisor reports for February and May, record reviews for February and April, and updated information on the required continuing education course.

Ms. Taxin stated she had reviewed Dr. Heap's prescriptions and discussed the errors found on the scripts. Ms. Taxin summarized the phone conversations with Dr. Heap for the Board

concerning: his insurance, prescriptions, continuing education, requested letters from Dr. Heap. Ms. Taxin summarized the phone conversation with Dr. Spencer and his responsibility as a supervisor.

Dr. Howell shared her concerns with Dr. Heap's being able to complete and follow through on tasks.

Dr. Lamb shared his concerns about Dr. Heap's ability to diagnose, prescribe prescriptions, and his ability to continue to practice.

Dr. Babitz reviewed the number of prescriptions.

Dr. Ries suggested that not all of the prescriptions' reviewed were written during appointments but could be refills.

Dr. Bennion requested information about the continuing of licensure when Dr. Heap may be retiring. Ms. Taxin provided options if Dr. Heap was to request to retire his license.

Dr. Howell requested information about a cognitive impairment evaluation in the Stipulation, how evaluations could be requested if the Stipulation is completed before the probationers' first interview before the Board.

The Board and Ms. Taxin discussed ways of obtaining cognitive impairment evaluations after Stipulations were written.

Dr. Lamb read from the Utah Medical Practice Act 58-67-601(3) and (4), the law which allows the Division with the majority of the Board to request a petition for an evaluation. Dr. Lamb recommended interviewing Dr. Heap and the possibility of pursuing this option after the interview to ensure protecting the public.

Steven Pack – Ms. Harry stated Dr. Pack is in compliance. Ms. Taxin discussed the need to educate Dr. Pack on his errors with his written prescriptions and his required logs. Ms. Taxin clarified the need for logs when administering controlled substances.

Dr. Babitz shared concerns with Dr. Pack's record keeping as this was the problem which brought Dr. Pack to the Board and being put on probation. The Board discussed clarifying the correct procedures with Dr. Pack.

Stanton Bailey – Ms. Harry stated Dr. Bailey is in compliance. Ms. Harry stated Dr. Bailey was excellent in providing her with his paperwork and he is up to date with required documents. Ms. Harry requested clarification between Dr. Bailey's supervisor and employer.

Ms. Taxin clarified the difference of Dr. Bailey's supervisor and his employer. Ms. Taxin discussed the reason Dr. Bailey had missed one drug test. The Board discussed Mr. Bailey's compliance and end of probation date of July 29, 2009.

Judy J. Engen – Ms. Harry stated Dr. Engen was scheduled to meet today and will not be able to attend as she has had a stroke. Dr. Engen's license has expired. Dr. Engen is not working and her probation is on hold until she is able to work. Ms. Taxin stated Dr. Engen's speech is currently impaired and she is willing to meet with the Board and that she stated she will be able to meet with the Board in approximately three months. The Board requested Dr. Engen be scheduled to meet with the Board when she is able.

9:45 am

Dr. Philip Washburn, Probationary Interview

Dr. Washburn met for his probationary interview. Lori Buhler conducted the interview.

Ms. Buhler did a records review. Ms. Buhler requested the triplicate copy of each prescription, the letter of probation experience from Dr. Washburn and a letter from Dr. Chipman, supporting the end of Dr. Washburn's probation.

Dr. Washburn submitted all paperwork requested except for the letter of experience.

Dr. Washburn discussed his learning experience while being on probation with the Board.

Dr. Washburn stated his biggest learning experience was in logging. Dr. Washburn stated he learned the importance of documentation and the need to track the controlled substance prescriptions. Dr. Washburn stated he learned the importance of second opinions and documenting to keep better medical records.

Dr. Washburn stated you must always weigh the need for balance between prescribing controlled substance and the needs of the patient. Dr. Washburn stated he feels the laws for prescribing are become more structured and more stringent with the abuse of controlled substances in our culture.

Dr. Washburn stated that 50% of his patients have some form of drug abuse. Dr. Washburn stated major issues he is concerned with are pain control and the increase in drug abuse with younger clients. Dr. Washburn shared his concern of the number of deaths from drug overdose. Dr. Washburn shared his concerns with chronic pain, addiction, and withdrawal for patients.

Ms. Buhler requested clarification of Dr. Washburn's practice and was his major practice dealing with drug abuse and depression.

Dr. Washburn stated he deals with general psychiatry but the main referral from the hospitals are from drug abuse and depression. Dr. Washburn discussed the complexities of dual diagnoses.

Ms. Taxin clarified the benefits from his probation with Dr. Washburn and stated it appears he is more aware of the requirements of the logging and documentation process.

Dr. Lamb asked for clarification of Dr. Washburn plans for going forward.

Dr. Washburn stated he planned to continue to use triplicates on scripts.

The Board determined Dr. Washburn was compliant.

Ms. Buhler made the motion to terminate Dr.

Washburn's probation and return his license to active in good standing. Dr. J. Pingree seconded the motion. The vote was unanimous.

Dr. Washburn is Compliant

10:00 am

Dr. Alan Heap, Probationary Interview

Dr. Heap met for his probationary interview.
Dr. Babitz conducted the interview.

Dr. Babitz welcomed Dr. Heap and asked him if he would like to share his medical health issues.

Dr. Heap shared his health issues in regards to his heart attack.

Dr. Babitz asked if there are any limitations from his health issues.

Dr. Heap stated yes, and explained his rehabilitation and the type of rehabilitation he is undergoing.

Dr. Babitz discussed how Dr. Heap was going to complete the required continuing education course and clarified that a controlled substance may be the only prescription on a script.

The Board discussed Dr. Heap's supervisor needed to be clear on the main two items of the supervision: type of required supervision and the required chart review. The Board discussed with Dr. Heap, the amount of prescription in relationship to the amount of patients he was seeing.

Dr. Babitz discussed the need to balance work and personal health.

Dr. Heap stated that at the August probationary interview, he will have a better idea of what he will be doing in regards to his practice.

Dr. G. Pingree discussed the possibility of Dr. Heap retiring and suggested that with Tooele being close to Salt Lake, Dr. Heap's patients would be able to receive the proper care.

Dr. Babitz stated the Board needed to receive the following past due reports: Dr. Jay Specter's reports for February and May, the file reviews, and the self assessment reports.

Ms. Harry asked Dr. Heap if there was any way the Board could assist in helping to obtain these reports.

Dr. Heap stated he would work on providing the reports, thanked the Board, and left the meeting.

The Board discussed their concerns with Dr. Heap's memory, health, and their concerns for Dr. Heap's patients.

Dr. Howell requested a telephonic appointment with Dr. Spector at the next Board meeting.

Dr. Heap is Non-Compliant.

10:30 am

Dr. Steven Pack, Probationary Interview

Dr. Pack met for his probationary interview.
Dr. Babitz conducted the interview.

Dr. Babitz asked how things were going and made the constructive suggestion to be more precise in logging, record keeping, and clarified that controlled substance prescriptions must be the only item on the script.

Dr. Pack discussed the record keeping of Michigan, how he was trained, and asked for clarification of when the reports and scripts were due.

Ms. Harry clarified when the reports and scripts were due and that they should be mailed on the 28th of each month. Ms. Taxin explained the need to review the reports before the Board meetings and the 28th of each month is when all reports are due.

Dr. Pack requested controlled substance prescriptions and the number of controlled substances on one prescription.

Ms. Taxin recommend Dr. Pack re-read the Utah Controlled Substance Laws and Rules to understand the difference in the Michigan and Utah Laws and learn which drugs are considered controlled substances in Utah.

Dr. Pack stated he used two types of prescription pads and wrote controlled substance prescriptions on numbered scripts.

Ms. Taxin recommend that Dr. Pack continues to be in compliance.

Dr. G. Pingree requested clarification of Dr. Pack's type of practice.

Dr. Pack stated his practice was emergency medicine.

Dr. Babitz thanked Dr. Pack for coming in and stated the Board would see him on his next quarterly visit and proposed if Dr. Pack continued being in compliance he may consider requesting meeting on six month intervals.

Dr. Pack is Compliant.

10:50 am

Dr. Stanton Bailey, Probationary Interview

Dr. Bailey met for his probationary interview. George Pingree conducted the interview.

Dr. G. Pingree welcomed Dr. Bailey and thanked him for coming. Dr. G. Pingree stated he had received the supervisors report from Dr. Rasmussen and the reports were very positive. Dr. G. Pingree asked if Dr. Rasmussen had any reports from his employer.

Dr. Bailey stated both he and Dr. Rasmussen were employed by the hospital.

Ms. Taxin clarified that a supervisor report and an employer report is due quarterly and if after a few quarterly reports have been submitted then maybe the employment reports may go to six months. Ms. Taxin requested an employer report for this month as one has not been received in four

years.

Dr. G. Pingree asked how the practice was going.

Dr. Bailey stated he is practicing and is learning to adjust his schedule between surgery and clinics. Dr. Bailey clarified working in Gunnison, Nephi, and asked if it was possible to travel the canyon with his staff to see patients in Fountain Glen.

Dr. Bennion made the motion to allow Dr. Bailey to travel to Fountain Glen once a week. Dr. Ries seconded motion. The vote passed unanimously.

The Board requested a practice plan including the Fountain Glen clinic and Fountain Glen supervision.

Dr. Lamb requested clarification on who would be seeing surgery patients when Dr. Bailey traveled.

Dr. Bailey stated he would be seeing the surgery patients during rounds or the general surgeon would see the patients when he was not available.

Dr. Bailey requested receiving information from Ms. Harry by e-mail.

Ms. Harry stated she would e-mail instead of telephone in the future.

Dr. Lamb asked how long Dr. Bailey had been sober.

Dr. Bailey stated he has been sober about four years and two months. Dr. Bailey apologized for missing one drug test and explained the circumstance.

The Board clarified the probationary period would end on July 29, 2009 and recommended Dr. Bailey continue in the positive manner.

Dr. Bailey is Compliant.

APPLICATIONS:

No items of discussion.

DISCUSSION ITEMS:

Dr. Robert McKeen Update

Ms. Taxin updated the Board regarding Dr. McKeen.

Ms. Taxin stated she received a letter from Dr. McKeen stating Dr. William Pugh would cover him. Ms. Taxin spoke with Dr. Pugh. Dr. Pugh stated he did not say he would cover for Dr. McKeen but if he was in the emergency room, he would do his duty, and treat the patients when they came in. Dr. Pugh stated he did not support what Dr. McKeen was doing but if a patient came to the emergency room, he would treat them.

Ms. Taxin called Dr. McKeen and stated Dr. Pugh is not covering for you but is just doing his duty. Ms. Taxin explained what was required. Dr. McKeen made an agreement with Dr. Mark Fullmer, who will cover for Dr. McKeen when he is not available.

Ms. Taxin shared that Dr. Fullmer will be retiring in one year. Ms. Taxin and the Board discussed the concerns about the patients with Dr. Fuller's retirement being so close and the need of treating Dr. McKeen's Utah patients properly.

Dr. J. Pingree shared his concerns and requested clarification on Dr. Fullmer's actual experience with lapband surgery.

Ms. Taxin stated that she believed Dr. McKeen has met the requirements of the public reprimand and that the Board cannot continue to make additional requests.

Dr. Babitz stated he understood Ms. Taxin's comment and shared his knowledge of the difficulties in receiving proper coverage for patients in this competitive market.

Dr. Judy J. Engen Update

The Board was updated on Dr. Engen during the compliance update with Ms. Harry.

Dr. Fowler's Update on the National Conference

Dr. Fowler updated the Board on the 96th Annual Meeting of The Federation of State Medical Boards. Dr. Fowler attended the Conference and conveyed the

information to the Board. Dr. Fowler provided a packet of information to each Board member. Dr. Fowler commented that some try to earn through legislation what they did not earn through education.

The Board discussed the advantages and disadvantages of advisory boards, the type of State Boards, and the advantages of Utah's Diversion program.

Dr. Howell stated she feels professionals will not request help for themselves from the Boards until an issue is serious enough for discipline without the Diversion program. Ms. Taxin stated that the Utah Board was rated well with discipline actions by the Public Citizen Organization report and provided a copy of the report.

Michael Goates

Ms. Taxin presented test results of Dr. Michael Goates. Dr. Goates tests results have been positive a majority of the time during his probation. Since Dr. Goates last meeting with the Board, he has had four positive drug results. Ms. Taxin discussed that other test results of doctors who are using the same items containing alcohol as Dr. Goates and they are not receiving positive test results. Ms. Taxin stated she feels that Dr. Goates is not being responsive to the Board suggestions and Dr. Goates needs to be in compliance with his Stipulation.

Dr. Babitz made the motion to have the Attorney Generals office do an Order-to-Show-Cause on Dr. Goates. Dr. Howell seconded the motion. The vote passed unanimously.

Treating Friends and Family Members

Dr. Lamb initiated a conversation about the concerns of the medical profession treating and prescribing to friends and family members.

The Board discussed the legal, ethical and moral issues of treating and prescribing to friends and family members.

Ms. Taxin provided reference material on the subject to the Board.

CORRESPONDENCE:

NBME

Ms. Taxin passed out the NBME annual report for Board members to review.

NEXT MEETING SCHEDULED FOR:

June 4, 2008

ADJOURN:

The time is 11:33 pm and the Board meeting is adjourned.

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

June 4, 2008
Date Approved

(ss) John W. Bennion, MD, Acting Chairperson
Chairperson, Utah Physician's Licensing Board

May 22, 2008
Date Approved

(ss) Noel Taxin
Bureau Manager, Division of Occupational &
Professional Licensing